

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

DAVID J. COTTRELL

No. 18 CR 704

Judge Robert W. Gettleman

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant DAVID J. COTTRELL, and his attorneys, THOMAS M. BREEN and ROBERT W. STANLEY, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with inducement of a minor to engage in illegal sexual activity in violation of Title 18, United States Code, Section 2422(b) (Count One), extortion under Title 18 United States Code, Section 875(d) (Count Two), attempt to sexually exploit a child under Title 18, United States Code Section 2251(a) and (e) (Count Three), transportation of child pornography under Title 18 United States Code, Section 2252A(a)(1) (Counts Four and Five), sexual exploitation of a child under Title 18, United States Code, Section 2251(a) (Count Six), and possession of child pornography under 18 U.S.C. § 2252A(a)(5)(B) (Count Seven).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charges to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the indictment: Count Six, which charges defendant with sexual exploitation of a child in violation of Title 18, United States Code, Section 2251(a), and Count Seven, which charges defendant with possession of child pornography in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts Six and Seven of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3:

a. With respect to Count Six of the indictment and relevant conduct:

In addition, on or about July 2, 2017, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant did knowingly use, persuade, induce, entice, and coerce a minor, namely Minor A, to engage in sexually explicit conduct, for the purpose of producing a visual depiction of such conduct, which visual depiction defendant knew and had reason to know would be transported and

transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, defendant met Minor A on the internet no later than early 2015, and began communicating with her on the “Kik” messaging application. Defendant used the Kik names “brightcitylights” and “sevendollarcab.” Defendant asked Minor A to create and send nude images of herself to him and she did.

Minor A, who lived outside the State of Illinois, used a pseudonym when communicating with defendant and said that she was eighteen years old, even though she only turned thirteen years old in the spring of 2014. At some point no later than the fall of 2015, Minor A told defendant that she was not available to chat because she was driving. Defendant responded that he knew that Minor A was not old enough to drive, and informed her that he knew her real name, where she lived, the school she went to, the names of the people in her family, and her parents’ jobs.

Between no later than the fall of 2015 and July 2017, defendant threatened Minor A repeatedly by telling her that he would distribute her nude images (which Minor A had previously sent the defendant) on the internet if she did not send him specific sexually explicit photos and videos. In response to defendant’s demands and threats, Minor A sent defendant sexually explicit photos and videos on a regular basis. Defendant also created “punishments” for Minor A if she did not obey his

demands. For one such punishment, defendant made Minor A send him an image of a hairbrush inserted into her anus.

After initially communicating on Kik, defendant and Minor A communicated on the Snapchat messaging application. By 2016, defendant was using the Snapchat username b88785. Defendant instructed Minor A to set up Dropbox storage accounts with temporary email addresses, to upload videos to the Dropbox account, and to email defendant the link to the Dropbox account in a Snapchat message.

Minor A sent defendant child pornography of herself at his direction before turning age sixteen. For instance, on October 16, 2016, when Minor A was 15, she sent defendant two images of herself showing her genitalia via Snapchat. Defendant knew Minor A's age at the time. In the course of making his demands and threats, defendant sent Minor A more than ten images which constituted child pornography. For example, in or around April 2017, defendant sent Minor A a series of thirteen video stills from a video that Minor A had previously sent defendant, showing her reaching down to her vaginal area to simulate masturbation, and exposing her genitalia.

In another instance on or about June 22, 2017, when Minor A was resisting defendant's demands and threats to create and send images of herself, defendant sent a Snapchat message to Minor A with a screenshot of a video that Minor A had previously sent the defendant. The screenshot depicted a close-up view of Minor A's finger touching her genitalia.

On or about July 2, 2017, defendant caused Minor A to make a video of herself in response to defendant's demands and threats. The video, which was created outside of Illinois, showed Minor A kneeling on a bed wearing just underwear, simulating masturbation, and talking to the camera as demanded by defendant. After making the video, Minor A uploaded the video file to a Dropbox storage account, and sent the defendant a link via Snapchat. Defendant received this video via Snapchat and Dropbox in Illinois.

On July 2, 2017, defendant knew that Minor A was 16 years old. Defendant acknowledges that the images produced on or about that date, as described above, were child pornography as defined in Title 18, United States Code, Section 2256(8)(A).

b. With respect to Count Seven of the indictment:

On or about June 14, 2018, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant knowingly possessed material, namely a Western Digital hard drive with serial number WXE808AZ1820, that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), such image having been shipped and transported using any means and facility of interstate and foreign commerce, including by computer, and such image having been produced using materials that had been shipped and transported in interstate and foreign commerce by any means, in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

More specifically, on June 14, 2018, defendant possessed a Western Digital hard drive with serial number WXE808AZ1820, which was manufactured outside the United States, at his home in Niles, Illinois. Defendant had previously stored photos of Minor B on that hard drive, including images of Minor B masturbating, displaying her genitalia, and touching her hand and mouth to a penis. Defendant knew that Minor B was a minor at the time these photographs were taken because defendant researched Minor B on the internet, discovered her identity, and drafted messages to her stating that he had discovered her child pornography on the internet.

Minor B's images were of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), and had been transported through a facility of interstate commerce at the time that defendant downloaded them off the internet.

7. Defendant, for purposes of computing his sentence under Guideline § 1B1.2, stipulates to having committed the following additional offenses:

a. With respect to Stipulated Offense No. 1

On or about March 26, 2018, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Minor C, to engage in sexually explicit conduct, for the purpose of producing a visual depiction of such conduct, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means

and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, in or around March 2018, defendant met Minor C on the internet and learned that she was 15 years old. On March 26, 2018, defendant began communicating with Minor C on the Kik application using the name “YouShallSubmitToMe Sir.” Minor C sent defendant photos of herself naked, including three photos showing her vagina. Defendant responded “[s]end me more normal pics of you from IG [Instagram] or something.”

After receiving photos of Minor C via Kik, defendant told Minor C “I’m going to send my instructions for the video” that defendant wanted Minor C to make for him. The instructions included “I want to be able to see at least your full face and tits, and ideally down to your hips / thighs / pussy.” Defendant instructed Minor C to state in the video that “you love being my little 15 year old pornstar” and “[t]hat I fucking own you and can use you however I want.”

In response to this request, Minor C made a video of herself pursuant to defendant’s instructions. Minor C then sent defendant a series of five video files through Kik that defendant received on his cellular phone. Those videos included a video in which Minor C is shown displaying her genitalia and simulating masturbation, which defendant downloaded as filename IMG_4521.

Defendant acknowledges that the image he received from Minor C with filename IMG_4521, as described above, was child pornography as defined in Title 18, United States Code, Section 2256(8)(A).

b. With respect to Stipulated Offense No. 2:

On or about January 29, 2017, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant did knowingly attempt to employ, use, persuade, induce, and entice a minor, namely Minor D, to engage in sexually explicit conduct, for the purpose of producing a visual depiction of such conduct, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

Specifically, in or about December 2017, defendant met Minor D on the internet, and began chatting with her on the Kik messaging application using the name "YouShallSubmitToMe Sir." On December 28, 2017, defendant told Minor D that she reminded him of a porn star and sent Minor D a pornographic video via Kik showing a naked young female with a man masturbating in front of her and then ejaculating on her face. Defendant told Minor D "that is definitely exactly what I'd want to do to you."

At the time, defendant understood that Minor D was younger than 18 years old. Defendant asked Minor D “[d]o you like being my teen pornstar” and “[d]o you think your parents will be leaving the house today?” When Minor D asked to hear defendant’s voice, he told her that he would consider letting her hear his voice when she was 18 years old and “legal” because “that’s what comes with being jailbait lol [laughing out loud].” On the evening of December 29, 2017, defendant sent Minor D the following instructions for making a video of herself:

First I want to see if we can do a mirror vid with better framing. Your other mirror vids were sexy but you’re too far away and I can’t see you well enough. I want to see if you can get closer to the mirror and thus zoom in more. I don’t need to see all the way down to the bottom of your knees. As long as I can see face down to pussy in the mirror it’s good. Try getting as close as you can with your face down to your pussy still in view on cam.

Defendant then gave Minor D instructions on what to say, including “tell me you’re my teen pornstar and at the end beg me to cum all over your teen face.” Minor D told defendant that she was having her period and did not know if she could do the video “completely naked.” Defendant asked if Minor D used tampons or pads. Minor D responded that she wore pads, and defendant replied “Ok you can just film yourself from the waist up then.” Minor D then sent videos to defendant in response to his requests, displaying her breasts but not her genitalia.

Defendant acknowledges that Minor D was under 16 years old on December 29, 2017, and that the images he requested showing her genitalia, as described above, would constitute child pornography as defined in Title 18, United States Code, Section 2256(8)(A).

c. With respect to Stipulated Offense No. 3:

On or about January 29, 2018, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant did knowingly employ, use, persuade, induce, and entice a minor, namely Minor E, to engage in sexually explicit conduct, for the purpose of producing a visual depiction of such conduct, which visual depiction defendant knew and had reason to know would be transported and transmitted using a means a facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a).

In or about the summer of 2017, defendant met Minor E on the internet and began communicating with her periodically. By December of 2017, defendant was using the name “YouShallSubmitToMe Sir” to communicate with Minor E on Kik. On December 30, 2017, while defendant and Minor E were discussing Minor E’s eating disorder and her insecurity about being skinny, defendant told her “[j]ust fucking strip and show me already and I’ll look and tell you.” When Minor E failed to send naked photos of herself, defendant responded “you didn’t send anything.”

On January 16, 2018, after Minor E had re-initiated conversation, defendant sent Minor E rules she must follow to “submit” to him. When Minor E did not respond, defendant told her, “[i]f you do not get your fucking ass back here and submit to me tonight this will be the last time you ever waste my time whore.” Minor E

responded “im sorry sir im doing homework; I just have to finish it; but yes I agree to the rules sir.” The next day, defendant messaged Minor E stating “show me yourself bitch” and Minor E responded “im at school.” Defendant responded “When you get home you’re making a 2 minute begging vid slut.”

On April 23, 2018, defendant asked Minor E, “you ready to be owned for real or not bitch?” to which she responded “yes Sir.” Defendant asked Minor E how old she was, and she responded that she had just turned seventeen years old. Minor E then sent defendant videos of herself simulating masturbation and displaying her genitalia. On May 21, 2018, defendant had the following exchange with Minor E:

Defendant: Send the video you were told to send whore

Minor E: i will when I get home sir

Defendant: What time is that

Minor E: now

Defendant: Then where’s the video

Defendant: Show me what you’re wearing bitch

Defendant: NOW

[Minor E sends defendant an image of herself]

Defendant: What panties

Minor E: none

Defendant: Is your pussy shaved

Minor E: yes

Minor E then sent an image of her shorts moved to the side exposing her vagina, which was downloaded onto defendant's cellular phone as IMG_5427.jpg. Defendant continued to demand that Minor E create the video he specified in his "directions" and insisted that she do it for him before doing her homework.

Minor E then sent defendant videos of herself simulating masturbation and exposing her genitalia, which were downloaded onto defendant's cellular phone as IMG_5101 and IMG_5102. Defendant continued to demand "a begging video," but Minor E stopped responding and the chat ended on May 21, 2018.

During the course of defendant's communications with Minor E, defendant took a screenshot of her Twitter followers and informed Minor E that he had done so. Minor E understood that defendant would know how to send her images to her Twitter followers, including a particular individual who she was concerned about, if she did not do what he told her to do.

Defendant acknowledges that the images he received from Minor E with filenames IMG_5427, IMG_5101, and IMG_5102, as described above, were child pornography as defined in Title 18, United States Code, Section 2256(8)(A).

e. With respect to Stipulated Offense No. 4:

On or about February 8, 2018, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant did knowingly attempt to employ, use, persuade, induce, and entice a minor, namely Minor F, to engage in sexually explicit conduct, for the purpose of producing a visual depiction of such conduct, which visual

depiction defendant knew and had reason to know would be transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, and which visual depiction was actually transported and transmitted using a means and facility of interstate commerce and in and affecting interstate commerce, in violation of Title 18, United States Code, Section 2251(a) and (e).

On or about February 8, 2018, defendant met Minor F on the internet. Using the Kik name “YouShallSubmitToMe Sir,” defendant messaged Minor F, who was using the Kik name “Babygirl,” stating “My sub told me you messaged her looking for a dom.”

Minor F sent defendant photos and told him that she was 18 years old and living in Canada. The following excerpts are taken from defendant’s Kik conversation with Minor F that evening, with certain acronyms explained in bracketed language:

Defendant: Good girl

Minor F: Thank you master

Defendant: You look like a cute little slut

Minor F: Thank you mat☺

Minor F: Master**

Defendant: How many doms have used you before me

Minor F: Many, sir

Defendant: How old were you when you stared

Defendant: Started*

Minor F: 13

Defendant: Got an early start being a whore. Good girl

Minor F: Yes sir

.....

Defendant: Strip naked, get on your fucking knees where a whore like you belong, and show me yourself waiting to be used

Minor F: Yes master

Defendant: Well bitch?

Defendant: This was not a difficult command

Minor F: My mother is in my room I apologize

Defendant: Then tell me these things slut

Defendant: Don't just keep me waiting

Minor F: Yes master im sorry

Defendant: How long til you're alone

Minor F: Idk [I don't know] sir

.....

Defendant: If you want to be owned by me there are three fundamental rules you must follow. And we will develop more skiing the way

Minor F: Yes master

Defendant: 1) you will do exactly as you are fucking told, when you are told to do it, without complaint, resistance, or delay

Defendant: 2) you will not disappear or fall asleep without asking for and being given permission from me to do so

Defendant: 3) you will not touch your pussy, have sexual contact with men, speak to another dom, or show your body to anyone without my permission

Defendant: Along the way **

Minor F: Yes master

Defendant: Now take the fucking picture I told you to take whore

Minor F: Yes master

Defendant: And when I give you an order or direction you will say “yes sir” or “yes master” and then fucking do it whore

Minor F: Yes sir

Defendant: If you like master or daddy better either is fine. But sir is my default

Minor F: Yes master

[Minor F sends an image of a close-up of her face with her eyes closed]

Defendant: I told you to strip nude.

Defendant: And get your fucking face in the pic slut

(Minor F sends defendant images with her breasts and vagina area exposed.

Defendant tells her “And get your fucking face in the pic slut,”

“Get at least your full face and tits in frame,” and

“Open your eyes and look at the cam” to which Minor E complies)

Defendant: That’s better bitch

Defendant: Good girl

Defendant: Now how old are you really. Tell me the truth.

Minor F: Thank you master

Minor F: 13
Defendant: Smh [shaking my head]. Don't ever fucking lie to be whore
Defendant: Me*
Minor F: Yes master☺

.....

Defendant: Get down on your knees, naked, and take a vid of yourself begging me to cum all over your face bitch.
Minor F: Why
Minor F: I cant
Minor F: Im bust
Minor F: Busy
Defendant: Busy doing what bitch
Minor F: My mom wants me to do housework
Defendant: How long til you're done
Defendant: Estimate
Defendant: Do you have porn of yourself saved in your camera roll
Defendant: Nudes n such
Minor F: No i dont and 3 hours
Defendant: Then go in the bathroom and dim the vid. It'll only take you a minute. Then you can get back to cleaning.

.....

Minor F: What do you even want a video of
Defendant: I told you to get on your fucking knees, nude, and take a video of yourself begging me to cum. All over your fucking

whose face. Get your full face and tits in frame. 1 minute long since you had a fucking attitude.

Minor F: Im sorry sir i cant

Minor F: My whole fam is sleeping

Defendant: If you do not then I am fine with you and blocking you.

Defendant: You may beg quietly.

Defendant: Then I am done with you**

Minor F: I cant

Minor F: Bye i guess

Minor F: Im sorry

Defendant: K then we are done here

Defendant: Bye useless cunt

Minor F: Bye

Defendant acknowledges that Minor F was 12-years old on February 8, 2018, that he knew that she was a minor, and that his requests for images of her “nude” and “naked,” as described above, were an attempt to persuade, induce, or entice her to produce child pornography as defined in Title 18, United States Code, Section 2256(8)(A).

Defendant acknowledges that the Kik messaging application and Dropbox cloud storage are facilities of interstate commerce and that defendant’s above described communications with Minors A, B, C, D, E, and F moved in interstate commerce.

- f. With respect to Stipulated Offense No. 5 (Count Five of the indictment):

The government incorporates by reference the factual basis for Count Six and relevant conduct in Paragraph 6.a. On or about June 22, 2017, at Niles, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant did knowingly transport and cause to be transported child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), using a means and facility of interstate commerce, and in and affecting interstate commerce by any means, including by computer, in violation of Title 18, United States Code, Section 2252A(a)(1). More specifically, defendant sent the screenshot referred to in Paragraph 6(a) to Minor A from Illinois through a facility of interstate commerce (Snapchat) and knew that Minor A would receive it in a state other than Illinois.

On or about June 22, 2017, defendant knew that Minor A was 16 years old. Defendant acknowledges that the images sent on or about that date, as described above, were child pornography as defined in Title 18, United States Code, Section 2256(8)(A).

Maximum Statutory Penalties

8. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count Six carries a maximum sentence of 30 years' imprisonment, and a statutory mandatory minimum sentence of 15 years. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a

term of probation for this offense. This offense also carries a maximum fine of \$250,000. Defendant further understands that the judge also must impose a term of supervised release of at least five years, and up to any number of years, including life.

b. Count Seven carries a maximum sentence of 10 years' imprisonment. Count Seven also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Seven, the judge also may impose a term of supervised release of not more than three years.

c. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court. The Court also may order restitution to any persons as agreed by the parties.

d. Pursuant to Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty or restitution imposed.

e. Defendant further understands that, pursuant to Title 18, United States Code, Section 3014, defendant will be assessed an additional \$10,000 if the Court determines that he is a non-indigent person.

f. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 40 years' imprisonment, and the minimum sentence is 15 years' imprisonment. In addition, defendant is subject to a total maximum fine

of \$500,000, a period of supervised release, and special assessments totaling \$10,200, in addition to any restitution ordered by the Court.

Sentencing Guidelines Calculations

9. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the

Guidelines Manual currently in effect, namely the November 2018 Guidelines Manual.

b. **Offense Level Calculations.**

Count Seven and Stipulated Offense No. 5 (Group One)

i. Pursuant to Guideline §§ 3D1.2(d) and 3D1.3(b), Count Seven and Stipulated Offense No. 5 group together.

ii. The base offense level is 22, pursuant to Guideline § 2G2.2(a)(2).

iii. Pursuant to Guideline § 2G2.2(b)(3)(D), six levels are added because the offense involved distribution to a minor that was intended to persuade, induce, entice, or coerce the minor to engage in any illegal activity, namely production of child pornography.

iv. Pursuant to Guideline § 2G2.2(b)(5), five levels are added because the defendant engaged in a pattern of sexual exploitation of a minor.

v. Pursuant to Guideline § 2G2.2(b)(6), two levels are added because the offense involved the use of a computer or an interactive computer service for the possession, transmission, receipt, or distribution of the material.

vi. Pursuant to Guideline § 2G2.2(b)(7)(B), three levels are added because the offense involved more than 150 images.

vii. Accordingly, the offense level for Stipulated Offense No. 5 is 38.

Count Six (Group Two)

viii. The base offense level for Count Six is 32, pursuant to Guideline § 2G2.1(a).

ix. Pursuant to Guideline § 2G2.1(b)(1)(B), the offense level is increased by two levels because it involved a minor who had not yet attained the age of sixteen years.

x. Pursuant to Guideline § 2G2.1(b)(2)(A), the offense level is increased by two levels because it involved the commission of a sexual act.

xi. Pursuant to Guideline § 2G2.1(b)(3), the offense level is increased by two levels because defendant knowingly engaged in distribution.

xii. Pursuant to Guideline § 2G2.1(b)(4), the offense level is increased by four levels because the offense involved sadistic or masochistic conduct.

xiii. Pursuant to Guideline § 2G2.1(b)(6)(B), the offense level is increased by two levels because it involved the use of a computer or an interactive computer service to persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct.

xiv. Accordingly, the offense level for Count Six is 44.

Stipulated Offense No. 1 (Group Three)

xv. The base offense level for Count Six is 32, pursuant to Guideline § 2G2.1(a).

xvi. Pursuant to Guideline § 2G2.1(b)(1)(B), the offense level is increased by two levels because it involved a minor who had not yet attained the age of sixteen years.

xvii. Pursuant to Guideline § 2G2.1(b)(2)(A), the offense level is increased by two levels because it involved the commission of sexual contact.

xviii. Pursuant to Guideline § 2G2.1(b)(6)(B), the offense level is increased by two levels because it involved the use of a computer or an interactive computer service to persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct.

xix. Accordingly, the offense level for Count Six is 38.

Stipulated Offense No. 2 (Group Four)

i. The base offense level for Count Six is 32, pursuant to Guideline § 2G2.1(a).

ii. Pursuant to Guideline § 2G2.1(b)(6)(B), the offense level is increased by two levels because it involved the use of a computer or an interactive computer service to persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct.

iii. Accordingly, the offense level for Count Six is 34.

Stipulated Offense No. 3 (Group Five)

iv. The base offense level for Count Six is 32, pursuant to Guideline § 2G2.1(a).

v. Pursuant to Guideline § 2G2.1(b)(2)(A), the offense level is increased by two levels because it involved the commission of sexual contact.

vi. Pursuant to Guideline § 2G2.1(b)(6)(B), the offense level is increased by two levels because it involved the use of a computer or an interactive computer service to persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct.

vii. Accordingly, the offense level for Count Six is 36.

Stipulated Offense No. 4 (Group Six)

viii. The base offense level for Count Six is 32, pursuant to Guideline § 2G2.1(a).

ix. Pursuant to Guideline § 2G2.1(b)(6)(B), the offense level is increased by two levels because it involved the use of a computer or an interactive computer service to persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct.

x. Accordingly, the offense level for Count Six is 34.

Grouping Under Guideline § 3D1.2

xi. Pursuant to Guideline § 3D1.2(d),

xii. there are six total groups. Group Two (Count Six) carries the highest offense level of 44. Pursuant to Guideline § 3D1.4(a), Group Two counts as one unit.

xiii. Group One (Count Seven and Stipulated Offense No. 5), Group Three (Stipulated Offense One), and Group Five (Stipulated Offense Three) are each 5 to 8 levels less serious than Group Two and, therefore, each count as one-half unit pursuant to Guideline § 3D1.4(b), for a total of one and one-half units. Group Four (Stipulated Offense Two) and Group Six (Stipulated Offense Four) are disregarded because they are nine or more levels less serious than Count Six, pursuant to Guideline § 3D1.4(c).

xiv. Pursuant to Guideline § 3D1.4(a), three levels are added to the group with the highest offense level because there are two and a half units. This results in a combined offense level of 47.

Repeat and Dangerous Sex Offender against Minors

xv. Pursuant to Guideline § 4B1.5(b)(1), five levels are added because the instant offense is a covered sex crime, defendant engaged in a pattern of activity involving prohibited sexual conduct, he is not a career offender, and he has no prior conviction for a sex offense, resulting in an offense level of 52.

Acceptance of Responsibility

xvi. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and

the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

xvii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

Total Offense Level

xviii. The total calculated offense level is 49. Pursuant to Guideline § 5A, Application Note 2, an offense level of more than 43 is to be treated as an offense level of 43.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 43, which, when combined with the anticipated criminal history category of I,

results in an anticipated advisory sentencing guidelines range of life imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. Pursuant to Guideline § 5G1.1(a), because the statutorily authorized maximum sentence of 40 years is less than the applicable guideline range, 40 years is the guideline sentence.

e. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

11. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the

Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

12. Each party is free to recommend whatever sentence it deems appropriate.

13. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

14. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant to make full restitution to Minors A and B in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing. Defendant also agrees to pay additional restitution arising from the stipulated offense conduct set forth above for Minors C, D, E, and F, in an amount to be determined by the Court at sentencing, pursuant to Title 18, United States Code, Sections 3663(a)(3) and 3664.

15. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

16. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court. If the Court finds that the defendant is a non-indigent person, defendant further agrees to pay the \$10,000 additional special assessment, assessed pursuant to Title 18, United States Code, Section 3014, after he has satisfied all outstanding court-ordered fines, orders of restitution, and any other obligation related to victim-compensation ordered by the Court and arising from the convictions.

17. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

18. Defendant agrees to waive and abandon any right, title, or interest he has in the following property seized from his residence on June 14, 2018: (a) a Silver Mac Book Pro SN: C2VF89WRDH2G, Model number A1278; (b) iPad (in Black Case) with serial number F9FTHAZ3HLJL, Model number A1823; (c) Western Digital

External Hard Drive, SN: WXD1A24P0799; (d) iPhone 10 in Faraday Bag; (e) iPhone 6S (Silver), Model number A1633; and (f) a thumb drive.

19. Defendant understands that the government, after publication of notice to any others who may have an interest in the property, will seek an order of abandonment from the Court, thereby authorizing the United States to destroy or otherwise dispose of such property according to law. Defendant understands that abandonment of this property shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the Court may impose.

20. After sentence has been imposed on the counts to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment, as well as the forfeiture allegation as to defendant.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

21. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in Case No. 18 CR 704.

22. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States

Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

23. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him

unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, he would have a right to retain the jury to determine whether the government had established the requisite nexus between defendant's offense and any specific property alleged to be subject to forfeiture.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

24. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

25. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

26. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

27. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

28. Defendant understands that pursuant to Title 18, United States Code, Sections 3583(d) and 4042(c), the Court must order as an explicit condition of supervised release that defendant register as a sex offender in compliance with the requirements of the Sex Offender Registration and Notification Act. Defendant also understands that he will be subject to federal and state sex offender registration requirements independent of supervised release, that those requirements may apply throughout his life, and that he may be subject to state and federal prosecution for failing to comply with applicable sex offender registration laws. Defendant understands that no one, including his attorney or the Court, can predict to a certainty the effect of his conviction on his duties to comply with current or future sex offender registration laws. Defendant nevertheless affirms that he wants to plead guilty regardless of any sex offender registration consequences that his guilty plea may entail.

29. Defendant agrees to participate in psychological counseling and sex offender treatment as directed by the Probation Office as a condition of any sentence of probation or supervised release imposed.

Other Terms

30. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

31. Defendant understands that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

Conclusion

32. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

33. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

34. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

35. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

36. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

JOHN R. LAUSCH, JR.
United States Attorney

DAVID J. COTTRELL
Defendant

CHARLES W. MULANEY
Assistant U.S. Attorney

THOMAS M. BREEN
ROBERT W. STANLEY
Attorneys for Defendant